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Reply to Office Action of April 29, 2005

Att'y Dkt No. 2000-0626 (MEDO 5035 PUS)

### Remarks

Claims 1-12, 15-19, and 21-23 are pending in this application. Claims 1, 15, and 21 have been amended, and no claims have been added or canceled. Reconsideration of this application is respectfully requested in light of the above amendments and the following remarks.

#### **Rejection of Claims 21-23 Under 35 U.S.C. § 102(e) Over Mathias**

Claims 21-23 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,480,627 issued to Mathias et al. ("Mathias"). Applicants have amended claim 21 herein to more particularly point out and distinctly claim the subject matter of the invention.

Specifically, claim 21 now recites a programmable software agent for selecting digital images for distribution to a user, where the digital images include "metadata containing information about *a source* of the digital images" (emphasis added). Claim 21 further recites that the software agent includes at least one set of user-specified criteria for selecting digital images, the user-specified criteria "including a desired source of the digital images." Still further, claim 21 recites that the software agent "automatically compares the user-specified criteria with the metadata of digital images available at the image server during a first time period to evaluate and select digital images from the desired source for distribution to the user, the at least one software agent automatically comparing the user-specified criteria with the metadata of additional digital images not available during the first time period whenever the additional digital images are made available at the image server." Support for these amendments can be found, for example, at p. 6, lines 20-24 and at p. 7, lines 12-14 of the specification. Therefore, Applicants' invention provides a "standing order" for digital images from a desired source, such that whenever images with metadata indicating a source that matches the desired source are created and made available at the image server, the images are automatically distributed to the user.

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In contrast to Applicants' claimed invention, Mathias discloses an image classification system and method that uses pattern recognition for image classification. An image processor 110 processes an image to produce a set of image characteristics 111 that describe the image, and a pattern matcher 120 processes the image characteristics 111 to produce a set of class likelihoods 121 representing the likelihood that the image corresponds to each of a set of predefined classes of patterns. A classifier 130 processes the class likelihood factors 121 to determine the classification of the image (*see* Mathias, col. 4, lines 1-60). As such, Mathias' system selects images based on the characteristics of the image pattern, and not the source of the image as claimed by Applicants. Accordingly, claim 21 is believed to be patentably distinguishable over Mathias, and reconsideration and withdrawal of the rejection of this claim and dependent claims 22-23 is respectfully requested.

**Rejection of Claims 1-8, 10, and 15-19**  
**Under 35 U.S.C. § 103(a) Over Savitzky and Mathias**

Claims 1-8, 10, and 15-19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,571,271 issued to Savitzky et al. ("Savitzky") in view of Mathias. Applicants have amended claims 1 and 15 herein to more particularly point out and distinctly claim the subject matter of the invention.

Similar to claim 21 described above, claim 1 has been amended to recite a system for distributing digital images to a user, where "the digital images include metadata containing information about a source of the digital images." Claim 1 further recites that the software agent includes "at least one set of user-specified criteria for selecting digital images, the at least one set of user-specified criteria including a desired source of the digital images." In addition, claim 1 recites "wherein for each set of user-specified criteria the at least one software agent automatically compares the user-specified criteria with the metadata of digital images available at the image server during a first time period to evaluate and select digital images from the desired source for distribution to the user, the at least one software agent automatically comparing the user-specified criteria with the metadata of additional digital images not available

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during the first time period whenever the additional digital images are made available at the image server." Method claim 15 has been amended similarly.

The Examiner admits that Savitzky does not disclose a software agent for automatically and repeatedly comparing user-specified criteria with digital image metadata, and asserts that Mathias discloses this feature. For the reasons described above, Applicants assert that Mathias does not disclose or suggest comparing the user-specified criteria with the metadata of digital images available at the image server to evaluate and select digital images from the desired source for distribution to the user as in the claimed invention. Therefore, claims 1 and 15 are believed to be patentably distinguishable over the combination of Savitzky and Mathias, and Applicants respectfully request reconsideration and withdrawal of the rejection of these claims, along with their corresponding dependent claims, under 35 U.S.C. § 103(a).

**Rejection of Claims 9 and 11-12**

**Under 35 U.S.C. § 103(a) Over Savitzky, Mathias, and Shiota**

Claims 9 and 11-12 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Savitzky in view of Mathias and U.S. Patent No. 6,337,712 issued to Shiota. Claims 9 and 11-12 depend from and contain all the limitations of independent claim 1 which, for the reasons stated above, is believed to be patentably distinguishable over Savitzky and Mathias, either alone or in further combination with Shiota. Accordingly, reconsideration and withdrawal of the rejection of these claims is also respectfully requested.

**Rejection of Claims 1-8, 10, and 15-19**

**Under 35 U.S.C. § 103(a) Over Savitzky and Khosla**

Claims 1-8, 10, and 15-19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Savitzky in view of U.S. Patent No. 6,202,061 issued to Khosla et al. ("Khosla"). As described above, Applicants have amended claims 1 and 15 herein.

The Examiner admits that Savitzky does not disclose a software agent for automatically and repeatedly comparing user-specified criteria with digital image metadata, but asserts that Khosla discloses this feature. Applicants respectfully disagree, and have amended

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claims 1 and 15 to more particularly point out that "for each set of user-specified criteria the at least one software agent automatically compares the user-specified criteria with the metadata of digital images available at the image server during a first time period to evaluate and select digital images from the desired source for distribution to the user, the at least one software agent automatically comparing the user-specified criteria with the metadata of additional digital images not available during the first time period whenever the additional digital images are made available at the image server."

In contrast to Applicants' claimed invention, Khosla discloses a system and method wherein a user submits search criteria to a computer for selecting pictures *at a particular point in time* for storage in a media container, such as an electronic photo album (see Khosla, col. 2, lines 1-19; col. 10, line 53 - col. 12, line 17; FIG. 9). In Khosla's system and method, once a search has been made of all databases or photo albums requested by the user and a media container generated to store the pictures that match the search criteria, *the search is over*. Khosla does not disclose or suggest maintaining the search criteria or continuing to search for additional photographs related to the search criteria which might not have been available during the previous search. Certainly, Khosla does not disclose or suggest "automatically comparing the user-specified criteria with the metadata of additional digital images not available during the first time period whenever the additional digital images are made available at the image server" as claimed by Applicants. Khosla does not recognize the problem solved by the claimed invention, namely the ability to automatically obtain digital images from a desired source whenever the images become available at the image server without having to re-request the desired image type each time.

Therefore, claims 1 and 15 are believed to be patentably distinguishable over the combination of Savitzky and Khosla. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1 and 15, as well as their corresponding dependent claims, under 35 U.S.C. § 103(a).

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**Rejection of Claims 9 and 11-12  
Under 35 U.S.C. § 103(a) Over Savitzky, Khosla, and Shiota**

Claims 9 and 11-12 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Savitzky in view of Khosla and Shiota. Claims 9 and 11-12 depend from and contain all the limitations of independent claim 1 which, for the reasons stated above, is believed to be patentably distinguishable over Savitzky and Khosla, either alone or in further combination with Shiota. Accordingly, reconsideration and withdrawal of the rejection of these claims is also respectfully requested.

### Conclusion

In summary, Applicants believe that the claims now meet all formal and substantive requirements and that the case is in appropriate condition for allowance. Accordingly, such action is respectfully requested. If a telephone conference would expedite allowance of the case or resolve any further questions, such a call is invited at the Examiner's convenience.

Respectfully submitted,

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